

**CITY OF NEWPORT BEACH PLANNING COMMISSION MINUTES**  
**Council Chambers – 100 Civic Center Drive**  
**Thursday, June 6, 2013**  
**REGULAR MEETING**  
**6:30 p.m.**

I. **CALL TO ORDER** - The meeting was called to order at 6:30 p.m.

II. **PLEDGE OF ALLEGIANCE** – Commissioner Ameri

III. **ROLL CALL**

PRESENT: Ameri, Myers, Toerge, and Tucker

ABSENT (Excused): Brown, Hillgren, and Kramer

Staff Present: Brenda Wisneski, Deputy Community Development Director; Leonie Mulvihill, Assistant City Attorney; Marlene Burns, Administrative Assistant; Deputy Public Works Director David Webb; Melinda Whelan, Assistant Planner; and Patrick Alford, Planning Manager

IV. **PUBLIC COMMENTS**

Chair Toerge invited those interested in addressing the Commission to do so. There was no response and Chair Toerge closed the Public Comments portion of the meeting.

V. **REQUEST FOR CONTINUANCES** - None

VI. **CONSENT ITEMS**

ITEM NO. 1 **MINUTES OF MAY 9, 2013**

**Recommended Action:** Approve and file

Chair Toerge acknowledged comments received from a member of the public, Jim Mosher.

**Motion** made by Commissioner Tucker and seconded by Commissioner Ameri and carried (3 – 1), to approve the minutes of May 9, 2013, as amended.

AYES: Ameri, Toerge, and Tucker

NOES: None

ABSTENTIONS: Myers

ABSENT: Brown, Hillgren, and Kramer

VII. **NEW BUSINESS**

ITEM NO. 2 **REVIEW OF PRELIMINARY FISCAL YEAR 2013-2014 CAPITAL IMPROVEMENT PROGRAM (PA2007-131)**  
**Site Location: Citywide**

Assistant Planner Melinda Whelan introduced the item and highlighted a list of Capital Improvement Projects for Fiscal Year 2013-2014 and the related General Plan policies with which they are consistent. Ms. Whelan referenced a CIP presentation which was presented to Council and is

attached to the report and a slide she prepared on behalf of a request by Commissioner Tucker regarding Ocean Boulevard.

Commissioner Tucker addressed an item included in the CIP related to replacement of the Park Avenue Bridge, which is adjacent to a property that he owns. He reported that upon discussion of that item, he will recuse himself and will abstain from voting on the matter.

Discussion followed regarding a budget for the Civic Center and wondered if it is not a stand-alone project with bond monies.

Deputy Public Works Director David Webb reported that most of the money is from bond proceeds and that there is \$500,000 in the budget that will carry over to this year.

Discussion followed regarding Ocean Boulevard and the possibility of using lighter asphalt to blend in with the lighter colored streets rather than darker colored asphalt that stands out.

Ensuing discussion pertained to planning monies attached to construction projects as detailed in previous CIP presentations, funds allotted for community outreach, and funds budgeted for the Marina Park project.

Mr. Webb addressed the amounts budgeted for the various phases of the latter and the need to make additional allotments as the project moves into other phases.

Interested parties were invited to address the Commission on this matter.

Jim Mosher expressed concern regarding the ability to understand the supporting material and commented on the opportunity for obtaining public input and review of the various proposed projects by the Commission. He felt that all of the projects should be listed for review and that they should be consistent with all elements within the General Plan. He referenced a code section and presented an example of an inter-agency project noting that it is not included in the list. He hoped that a comprehensive list will be provided in the future.

There being no others wishing to address the Commission, Chair Toerge closed public comments for this matter.

Commissioner Ameri agreed that the list should include those projects with which other agencies are involved. He felt it would be helpful to have a comprehensive view of what is being done in the City.

Assistant City Attorney Leonie Mulvihill addressed the appropriate General Plan section related to the CIP noting that it requires the determination of consistency with the General Plan, which is the purpose of tonight's action. She noted that the code section referenced by Mr. Mosher is separate and pertains to the obligation of outside agencies to notify the City of projects affecting it.

Commissioner Ameri addressed the need for having additional information through a comprehensive list of projects affecting the City.

Chair Toerge clarified the action needed at this time.

**Motion** made by Commissioner Tucker and seconded by Commissioner Myers and carried (3 – 1), to determine that the CIP projects are consistent with the policies of the General Plan and direct staff to report this finding to the City Council.

AYES: Ameri, Myers, and Toerge  
NOES: None  
ABSTENTIONS: Tucker  
ABSENT: Brown, Hillgren, and Kramer

**ITEM NO. 3 DISCUSSION OF RESIDENTIAL LOT MERGER CODE AMENDMENT (PA2012-102)**

Planning Manager Alford presented background on the aforementioned item and noted prior direction received from the Commission to consider the possibility of revising the findings for lot mergers, setbacks based on lot width, maintaining floor area limits, exempting substandard lots, applying the requirements City-wide, keeping consistent with development patterns, and mergers involving more than two lots. He noted an example of how the findings can be modified to provide additional direction and clarity to decision makers. Mr. Alford reported receiving comments from Commissioner Tucker making minor modifications to the proposed amendment.

Commissioner Tucker addressed challenges with the original language proposed and noticed distinctions between lot mergers and what gets developed. He commented on the Ocean Boulevard project and felt that the language needed clarity and that the house plans should not have been entertained at all. He addressed surrounding patterns of development and excessively large lots as well as the need to develop appropriate recommendations for the City Council.

He reviewed details of the revised amendment highlighting the language that he is proposing relative to the findings. He addressed compatibility and felt that the new language increases clarity.

Chair Toerge agreed with the need to eliminate ambiguity. He questioned using "nearby" rather than "adjacent or adjoining" and agreed with the need for clarity. He agreed with evaluating lots rather than developments when considering lot mergers and addressed the use of "unreasonable" rather than "material detriment" and noted the rights of property owners to build onto their properties without causing a detriment to adjacent lots.

Commissioner Ameri agreed with separating lot mergers from development, allowing for increased flexibility and previous projects considered. He addressed tying the orientation and development of properties to lot mergers and felt that they should be separate from each other.

Commissioner Myers suggested directing staff to develop a physical dimension as a guideline for defining "nearby," to provide some physical standard that is not arbitrary, including "defining adjacent or adjoining."

Commissioner Tucker stated agreement with Commissioner Myers comments.

Discussion followed regarding the need for consistency with the surrounding development and clarifying "adjacent" and "adjoining". It was noted that the term "nearby" is not clearly defined.

Assistant City Attorney Mulvihill commented the use of "nearby" in terms of serving the intent and the use of "unreasonable" versus "material detriment". She stated that "material" references specific things and stated the preference for the use of "unreasonable" because it will take a common sensible approach and will be evaluated on a case-by-case basis.

A straw vote of the Commission resulted in agreement to use the word "unreasonable".

Mr. Alford addressed suggestions regarding setbacks and tying them to the width of lots and setting minimum or maximum distances. He added that floor/area ratios can be controlled by increasing setbacks. He addressed side setbacks and issues related to areas outside the R-1 Zoning District and noted that they already have wider setbacks, larger lot requirements and are controlled by lot coverage. He listed the areas involved that are controlled by lot coverage rather than floor/area limits and addressed non-conformity.

Discussion followed regarding the process for going forward, options available, and developing recommendations for the City Council.

Interested parties were invited to address the Commission on this item.

Jim Mosher addressed specific findings and reported that a section of the Municipal Code that was recently changed by Council. He commented on reasons why this item was sent back to the Planning Commission by the City Council and approval by the Zoning Administrator of lot mergers, conditions of approval and suggested changes to the language.

There being no others wishing to address the Commission, Chair Toerge closed public comments on this item.

Commissioner Tucker commented on setbacks, Council's intent, and allocation of mass and the possibility of adding language to allow flexibility for the applicant for locating the mass/bulk. He felt that the Zoning Code should be amended to address the issue of lot mergers.

Chair Toerge addressed consistency when considering lot mergers and the possibility of conditional approval.

Commissioner Myers stated agreement with Commissioner Tucker in terms of needing to adjust the Zoning Code.

Discussion followed regarding side setbacks, massing of structures, creating burdens on adjacent properties, establishing clear standards for setbacks (i.e., ten percent of the lot width), setting minimum/maximum setbacks, and benefits of allowing for increased flexibility.

Commissioner Myers noted that lots created by mergers result in different lots and should be treated differently as they are developed. He noted it is preferable to allow owners the flexibility to create their own designs.

Chair Toerge addressed comments submitted by Commissioner Tucker in terms of "adjacent" and/or "adjoining" lots and agreed with deleting "nearby".

The matter was agreeable to all Planning Commissioners.

Discussion followed regarding avoiding rendering non-merged lots non-conforming and developing policies that are clear and allowing for increased flexibility.

The Planning Commissioners agreed with recommendations relative to setback issues.

Ensuing discussion pertained to floor/area ratio limitations being no different after the merge than before the merge and adding a provision to the Zoning Code that would allow a review of merged lots.

Mr. Alford summarized a recommendation to the City Council from the Planning Commission indicating that they should consider revising the findings per discussion this evening and that if there are additional concerns regarding massing or bulk, that they should consider revising the Zoning Code to place further restrictions on merged lots.

Ms. Mulvihill noted that the item tonight is simply a discussion and that Mr. Alford will report back to the City Council on the substance of the discussion.

At Chair Toerge's suggestion, Deputy Community Development Director Wisneski reported that the matter will be presented to the Planning Commission at its meeting on June 20, 2013, in order for the Planning Commission to develop formal recommendations to the City Council.

Commissioner Tucker reported that he will provide language to staff regarding a proposed process.

#### **VIII. STAFF AND COMMISSIONER ITEMS**

##### **ITEM NO. 4 MOTION FOR RECONSIDERATION - None**

##### **ITEM NO. 5 COMMUNITY DEVELOPMENT DIRECTOR'S REPORT**

Ms. Wisneski reported on actions taken by the City Council during its last meeting, which included an initiation to amend the General Plan to investigate development potentials and the establishment of an advisory committee to support the amendment process.

She added that the Planning Commission can move forward with its meeting scheduled on June 20, 2013, since the Commission has now directed staff to return with consideration of a recommendation to the City Council regarding lot mergers.

##### **ITEM NO. 6 ANNOUNCEMENTS ON MATTERS THAT THE PLANNING COMMISSION MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION, OR REPORT**

##### **ITEM NO. 7 REQUESTS FOR EXCUSED ABSENCES – None**

Commissioner Tucker requested adjourning the meeting in memory of Isidore C. Myers, a close friend of his and father of Commissioner Myers.

#### **IX. ADJOURNMENT**

There being no further business to come before the Planning Commission, the meeting was adjourned at 7:55 p.m. in memory of Isidore C. Myers.

The agenda for the Regular Meeting was posted on May 31, 2013 at 2:00 p.m., on the City Hall Bulletin Board located in the entrance of the Council Chambers at 100 Civic Center Drive.

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Michael Toerge, Chairman

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Fred Ameri, Secretary